

## **IC 14-34-18**

### **Chapter 18. Designation of Land Unsuitable for Surface Coal Mining**

#### **IC 14-34-18-1**

##### **Exemptions**

Sec. 1. This chapter does not apply to the following:

- (1) Land on which surface coal mining operations were conducted:
  - (A) on August 3, 1977; or
  - (B) under a permit issued under:
    - (i) IC 13-4.1 (before its repeal); or
    - (ii) this article.
- (2) Land where substantial legal and financial commitments in a surface coal mining operation were in existence before January 4, 1977.

*As added by P.L.1-1995, SEC.27.*

#### **IC 14-34-18-2**

##### **"Substantial legal and financial commitments in a surface coal mining operation" defined**

Sec. 2. As used in this chapter, "substantial legal and financial commitments in a surface coal mining operation" means significant investments that have been made on the basis of a long term coal contract in power plants, railroads, coal handling facilities, preparation facilities, extraction facilities, or storage facilities and other capital intensive activities, such as the following:

- (1) Improvement or modification of coal land within, for access to, or in support of surface coal mining and reclamation operations.
- (2) Acquisition of capital equipment for use in, for access to, or for use in support of surface coal mining and reclamation operations.

*As added by P.L.1-1995, SEC.27.*

#### **IC 14-34-18-3**

##### **Prohibited conditions**

Sec. 3. (a) Subject to valid existing rights that existed before August 3, 1977, and except for those operations that existed on August 3, 1977, and as provided in subsection (c), a surface coal mining operation may not exist under any of the following conditions:

- (1) On land within the boundaries of units of the following:
  - (A) The National Park System.
  - (B) The National Wildlife Refuge Systems.
  - (C) The National System of Trails.
  - (D) The National Wilderness Preservation System.
  - (E) The Wild and Scenic Rivers System, including study rivers designated under the federal Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271 et seq.).

(F) National Recreation Areas designated by an act of the United States Congress.

(2) On federal land within the boundaries of a national forest. However, surface coal mining operations are allowed on the national forest land if the United States Secretary of the Interior finds that:

(A) there are no significant recreational, timber, economic, or other values that are incompatible with surface mining operations; and

(B) surface operations and effects are incident to an underground coal mine.

(3) That will adversely affect:

(A) a publicly owned park or a place included in:

(i) the National Register of Historic Places; or

(ii) the Indiana state register of historic sites and structures; or

(B) a natural landmark included in the National Register of Historic Places;

unless approved jointly by the director and the federal, state, or local agency with jurisdiction over the park or the historic site.

(4) Within one hundred (100) feet of the outside right-of-way line of a public road, except where mine access roads or haulage roads join the right-of-way line. However, the director may permit:

(A) a road to be relocated; or

(B) the area affected to lie within one hundred (100) feet of the road if, after public notice and an opportunity for a public hearing in the locality, a written finding is made that the interests of the public and the landowners affected will be protected.

(5) Within three hundred (300) feet from any of the following:

(A) An occupied dwelling, unless waived by the owner.

(B) A public building.

(C) A school.

(D) A church.

(E) A community or an institutional building.

(F) A public park.

(6) Within one hundred (100) feet of a cemetery.

(7) That will violate a local zoning ordinance.

(b) If:

(1) valid rights exist; or

(2) joint agency approval is to be obtained under subsection

(a)(3);

adverse effects of mining shall be minimized.

(c) If the director determines that the public health or safety will be endangered, the extraction of coal by strip mining methods within the distances for:

(1) occupied dwellings set forth in subsection (a)(5); and

(2) public roads set forth in subsection (a)(4), except where a public road is vacated or closed in accordance with law;

is not subject to valid existing rights.

(d) The commission shall adopt rules to establish a planning process enabling objective decisions based upon competent and scientifically sound data and information to determine the land areas of Indiana, if any, that are unsuitable for all or certain types of surface coal mining operations under the standards set forth in this section. However, the designation does not prevent the mineral exploration under this article of an area so designated.

*As added by P.L.1-1995, SEC.27.*

#### **IC 14-34-18-4**

##### **Petition to director**

Sec. 4. (a) A person with an interest that is or may be adversely affected may petition the director to:

- (1) designate an area as unsuitable for surface coal mining operations; or
- (2) have the designation terminated.

The petition must contain allegations of facts with supporting evidence that tends to establish the allegations.

(b) Within ten (10) months after receipt of a petition, the director shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of the hearing. A person may intervene by filing allegations of facts with supporting evidence that tends to establish the allegations after the petition is filed and before the hearing.

(c) Within sixty (60) days after the hearing, the director shall issue and furnish to the petitioner and any other party to the hearing a written decision regarding the petition and the reasons for the decision.

(d) The director is not required to hold a hearing if all the petitioners do the following:

- (1) Stipulate agreement before the requested hearing.
- (2) Withdraw the request.

*As added by P.L.1-1995, SEC.27.*

#### **IC 14-34-18-5**

##### **Statement by director**

Sec. 5. Before designating a land area as unsuitable for surface coal mining operations, the director shall prepare a detailed statement on the following:

- (1) The potential coal resources of the area.
- (2) The demand for coal resources.
- (3) The impact of the designation on the following:
  - (A) The environment.
  - (B) The economy.
  - (C) The supply of coal.

*As added by P.L.1-1995, SEC.27.*

#### **IC 14-34-18-6**

##### **Designation of area as unsuitable**

Sec. 6. (a) The director may designate an area as unsuitable for coal mining if the designation is based on competent and scientifically sound data.

(b) The director may designate an area as unsuitable for certain types of coal mining operations if the operation will:

- (1) be incompatible with existing state or local land use plans or programs;
- (2) affect fragile or historic lands in which the operation could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems;
- (3) affect renewable resource lands, including aquifers and aquifer recharge areas, in which the operation could result in a substantial loss or reduction of long range productivity of water supply or of food or fiber products; or
- (4) affect natural hazard lands, including the following:
  - (A) Areas subject to frequent flooding.
  - (B) Areas of unstable geology in which the operation could substantially endanger life and property.

(c) The director shall designate an area as unsuitable for all or certain types of surface coal mining if the director determines that reclamation under this article is not technologically and economically feasible.

(d) The director shall integrate determinations of the unsuitability of land for surface coal mining with the land use planning and regulation processes at the federal, state, and local levels.

*As added by P.L.1-1995, SEC.27.*